IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22373 of 2004

Between:

Nagaraja Guptha S/o P. Pullaiah, aged 28 years,

Fair Price Shop Dealer, 21st Ward, Ananthapur

... PETITIONER

AND

1 The Joint Collector, Ananthapur, Ananthapur District.
2 The Revenue Divisional Officer, Ananthapur,

Ananthapur District.
3 The Mandal Revenue Officer, Ananthapur,

Ananthapur District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of mandamus or any other appropriate Writ or Writs, order or Direction, declaring the action of the first respondent in neither disposing of the appeal filed by the petitioner nor granting stay orders in the said appeal as illegal and arbitrary by setting a side the proceedings dt 15-11-2004 in Rc. No. D1/CS/1652/2004 on the file of the 2nd Respondent, by further directing the third respondent to continue to supply essential commodities to the petitioner every month on regular basis; Award costs.

Counsel for the Petitioner: MR.N.RANGA REDDY

Counsel for the Respondent Nos.1 to 3 : GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following :

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O R D E R:

The authorization of the petitioner as Fair Price Shop Dealer for 21st Ward of Ananthapur town was cancelled by the second respondent, through orders dated 15.11.2004. Aggrieved thereby, the petitioner filed an appeal before the first respondent, together with an application for grant of stay. The grievance of the petitioner is that the order of cancellation cannot be sustained inasmuch as he has not received any notice and as the appellant authority has not passed any order on the application for grant of stay. He contends that on account of the inaction on the part of the first respondent, steps are being taken to entrust the supply of essential commodities to other dealers.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

Under Clause 5 (4) of A.P. State Public Distribution System Control Order, 2001 (for short "Control Order, 2001), an authorization can be cancelled only after a notice is issued to the dealer. The said clause does not make any distinction between a permanent and a temporary dealer. Therefore, the order dated 15.11.2004 is, *prima facie*, violative of principles of natural justice as well as Clause 5 (4) of the Control Order, 2001.

The petitioner availed the remedy of appeal under the Control Orders. The appellate authority is conferred with the power to grant interim orders. If the disposal of the stay application is delayed, the very purpose of filing an appeal would be defeated.

Hence, the writ petition is disposed of directing that the order of cancellation dated 15.11.2004, passed against the petitioner, shall stand stayed till the first respondent disposes of the appeal preferred by the petitioner. There shall be no order as to costs.

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6th December, 2004

Note: Issue copy in two days.

(B/o)

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To

1 The Joint Collector, Ananthapur, Ananthapur District.
2 The Revenue Divisional Officer, Ananthapur,

Ananthapur District.
3 The Mandal Revenue Officer, Ananthapur,

Ananthapur District.

4 Two C.Cs. to the Government Pleader for Civil Supplies,

High Court buildings, Hyderabad (OUT)

5 Two C.D.copies